IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 10779 of 2006(G)

PETITIONER:

K.M. RADHA,
HIGH SCHOOL ASSISTANT (MALAYALAM),
GOVT. HIGHER SECONDARY SCHOOL, AZHACHAVATTOM,
MANKAVU P.O., KOZHIKODE-673 007.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY THE SECRETARY TO THE DEPARTMENT OF
GENERAL EDUCATION (U), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION, GOVT. OF KERALA, THIRUVANANTHAPURAM.

3. THE HEADMISTRESS,
GOVT. HIGHER SECONDARY SCHOOL, AZHCHAVATTOM,
MANKAVU P.O., KOZHIKODE-673 007.

4. K. KRISHNAN KUTTY,
PRINCIPAL, GOVT.HIGHER SECONDARY SCHOOL,
IRINJALAKUDA.

BY G.P.SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2006, RT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE APPLICATION FOR APPOINTEMNT AS HSS TEACHER, BEARING THE SERVICE PARTICULARS DULY CERTIFIED BY THE THIRD RESPONDENT.**
EXT.P1(A)	**DO- IN RESPECT OF THE FOURTH RESPONDENT - JUNIOR TO THE PETITIONER.**
EXT.P2	**TRUE COPY OF THE ORDER NO.A2/472/97/HSE DTD. 08-09-97 FIXING THE RANK OF THE FOURTH RESPONDENT IN THE SENIORITY LIST AT 80(A) AND PROMOTING HIM AS HSST TEACHER.**
EXT.P3	**TRUE COPY OF THE REPRESENTATION DTD. 09-07-98 PREFERRED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**
EXT.P4	**TRUE COPY OF THE ORDER NO.A2/4974/97/HSE DTD. 20-01-99 PASSED BY THE 2ND RESPONDENT, RESTORING THE SENIORITY OF THE PETITIONER AND FIXING HER AT SL.NO.69(A) IN THE RANK LIST OF QUALIFIED TEACHERS, ASSURING THE POSTING IN THE NEXT ARISING VACANCY.**
EXT.P5	**TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT, SEEKING TO IMPLEMENT EXT.P4.**
EXT.P5(A)	**DO. DTD. 03-09-04.**
EXT.P5(B)	**DO. DTD. 18-02-05.**
EXT.P6	**TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
EXT.P7	**TRUE COPY OF THE DIRECTION/PROCEEDING BEARING NO. 55460/U1/05/GED DTD. 31-10-05 ISSUED BY THE FIRST RESPONDENT TO SECOND RESPONDENT WITH COPY TO THE PETITIONER.**

/True copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No. 10779 OF 2006

Dated this the 28th day of November,2006.

JUDGMENT

Case of the petitioner is as follows:

Petitioner commenced her regular service as an H.S.A. from 09-06-1978 in Kozhikode district and started her PSC service with effect from 18-08-1980. Her junior, the fourth respondent commenced his regular service only on 17-07-1978. Petitioner and fourth respondent vide Exts.P1 and P1(a) applied in regard to the preparation of the panel for appointment as Higher Secondary School Teachers. While so, fourth respondent was appointed as H.S.S.T. placing him at Sl.No.80(A) in the concerned seniority list vide Ext.P1 without considering petitioner's seniority.

2. Petitioner filed representations. It is after considering that, the mistake was rectified by the second respondent and seniority of the petitioner was recognised by placing her at Sl.No.69(A) in the list. It was also assured that the petitioner will be considered for posting in the next arising vacancy. As there is no further action, it is the case of the petitioner that she filed Ext.P5 representation followed by further reminders. Ultimately

first respondent passed Ext.P7 on 20-01-1999 directing to pursue further steps.

3. Petitioner has approached this court seeking inter-alia for a direction to promote her as H.S.S.T. (Malayalam) with effect from the date on which any of her juniors was promoted and disburse all consequential benefits.

4. Learned Government Pleader submits that the delay in effecting promotion was on account of the pendency of the writ petitions in this court filed by the persons included in the rank list for appointment of H.S.S.T. by direct recruitment. It is also pointed out that there was an interim order passed by this court. It is further submitted that now the matter is settled as per the judgment of the learned single judge reported in **Shamna v. State of Kerala** (2006(2)KLT 673) which has been modified as per the judgment in W.A. No.1000/06 and connected cases. It is submitted that there are 33 posts of H.S.S.T. available for appointment from the 25% quota as per the seniority list dated 31-07-2005. It is further submitted that there are six more vacancies for appointment from the 25% quota. It is submitted that now there is no impediment in granting promotion to the petitioner.

5. In such circumstances, there will be a direction to the second respondent to consider the case of the petitioner for appointment as H.S.S.T. in accordance with law in regard to the vacancy as contemplated in Ext.P4 order. This shall be done within one month from the date of receipt of a copy of this judgment. Once the petitioner is found eligible for promotion, she will also be eligible for all consequential benefits in accordance with law.

Writ petition is disposed of as above.

K.M.JOSEPH.
JUDGE.

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